IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

L.P.A. NO. 181/07.

Satyanarayan Khandelwal .vs. Kashiram Rathod.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrars orders.	Court's or Judge's orders.

CORAM: A.P. LAVANDE & R.V. MORE, JJ.

DATED : JULY 16, 2007.

Heard Mr. Bhattad, learned Counsel for the appellant.

By this appeal, the appellant takes exception to the order dated 31.1.2007 passed by learned Single Judge in Writ Petition No. 329/07 whereby the petition filed by the appellant herein against the order dated 22.12.2006 passed by Civil Judge, Junior Division, Mahagaon allowing application for impleadment of a party was dismissed. The learned Single judge while dismissing the petition has imposed costs of Rs.2500/- as condition precedent for permitting the petitioner who is defendant in the said suit to continue to defend the suit. Mr. Bhattad submits that the learned Single Judge even if was inclined to dismiss the petition ought not to have awarded costs of Rs.2500/- as a condition precedent.

He further submits that the petition was dismissed at admission stage and considering the facts and circumstances of the case, costs ought not to have been awarded against the appellant.

Having perused the impugned order as well as the order

passed by the learned Civil Judge, J.D., we find no merit in the present appeal. However, considering the facts and circumstances of the case, we are inclined to set aside the order passed by the learned Single Judge in so far as it imposes costs of Rs.2500/- upon the appellant.

Subject to above, the appeal is dismissed. The order passed by the learned Single Judge in so far as it imposes costs is set aside.

CIVIL APPLICATION NO. 4711 OF 2007 :

The application is dismissed as infructuous.

JUDGE. **JUDGE.**

J.